

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel,
W.A. DREW EDMONDSON, in his
capacity as ATTORNEY GENERAL
OF THE STATE OF OKLAHOMA,
et al.

Plaintiffs,

V.

TYSON FOODS, INC., et al.,

Defendants.

No. 05-CV-329-GKF-PJC

REPORTER'S TRANSCRIPT OF PROCEEDINGS

HAD ON JULY 2, 2009

MOTION HEARING

BEFORE THE HONORABLE GREGORY K. FRIZZELL, Judge

APPEARANCES:

For the Plaintiffs: Mr. Drew Edmondson
Attorney General
Ms. Kelly Hunter Burch
Assistant Attorney General
313 N.E. 21st Street
Oklahoma City, Oklahoma 73105

1 bring those claims because they're not seeking a remedy in
2 damages for property interests that they control or own. So, I
3 mean, at some point you have to reach -- I don't think you can,
4 I don't think the Court can navigate through this case and
5 never reach that issue.

6 THE COURT: Well, that's a good point as to the
7 trespass claims because ultimately one would have to
8 determine -- if one is going to determine damages for trespass,
9 one is going to have to determine what properties on the
10 Illinois River and in the Illinois River Watershed the State
11 owns and what properties the Cherokee Nation owns. But let's
12 excise, let's say that is an insurmountable problem here, we
13 still have CERCLA and it's not necessary to determine the
14 respective interests with regard to a CERCLA claim. And, in
15 fact, Coeur d'Alene says that.

16 MR. GREEN: But the relief has to be, I mean, we can't
17 accord complete and full relief without the Cherokee Nation if
18 you are going to insert them into the case in the fashion that
19 I think you are suggesting to me, and if they're not in this
20 case, I don't even know whether they would be bound by the
21 judgment. And I don't think CERCLA envisions a second round of
22 litigation, you know, following up on the heels of your
23 adjudication in fighting over the -- you know, the remediation.

24 THE COURT: That's what the judge in Coeur d'Alene
25 said.